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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,597	09/30/2003	Frank Colletti	COLLETTI-1	5540
38563	7590	01/05/2009	EXAMINER	
DAVID J. DETOFFOL, ESQ., P.C.			TOMPKINS, ALISSA JILL	
305 BROADWAY, SUITE 1101				
NEW YORK, NY 10007			ART UNIT	PAPER NUMBER
			3765	
			MAIL DATE	DELIVERY MODE
			01/05/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: FRANK COLLETTI and CHARLES RAUTH

Application No. 10/674,597
Technology Center 3700

Mailed: 5 January 2009

Before LAWRENCE J. BANKS *Paralegal Specialist*
BANKS, *Paralegal Specialist.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 28, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith

Application No. 10/190,945
being returned to the Examiner to address the following matter(s) requiring
attention prior to docketing.

EXAMINER'S ANSWER, HEADINGS

A review of the file indicates that the Examiner's Answer filed October 5, 2007, does not comply with the guidelines provided in MPEP § 1207.02 because it does not contain all of the required heading items. Specifically, the Examiner's Answer must contain the following heading items in the following order:

- (1) *Real party in interest.*
- (2) *Related appeals and interferences.*
- (3) *Status of claims.*
- (4) *Status of amendments After Final.*
- (5) *Summary of claimed subject matter.*
- (6) *Grounds of rejection to be reviewed on appeal.*
- (7) *Claims Appendix.*
- (8) *Evidence Relied Upon.*
- (9) *Grounds of Rejection.*
- (10) *Response to Argument.*
- (11) *Related Proceedings Appendix.*

An in-depth review of the Examiner's Answer indicates that the following sections are missing from the Examiner's Answer mailed October 5, 2007 and/or are not complete or clear in setting forth agreement or disagreement with the Appeal Brief:

(1) "Real party in interest",

A substitute Examiner's Answer that is in compliance with the guidelines is required. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8th ed. Rev. 6, Sept 2007) for details.

Accordingly, it is ORDERED that the application be returned to the Examiner:

- 1) to vacate the Examiner's Answer mailed October 5, 2007;
- 2) to generate a new Examiner's Answer in compliance with the guidelines; and
- 3) for such further action as may be required.

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